

AMENDED IN ASSEMBLY JULY 13, 1995

AMENDED IN ASSEMBLY JUNE 26, 1995

SENATE BILL

No. 431

Introduced by Senator Rosenthal

February 16, 1995

An act to amend Section 19807 of, *to add Sections 19819.1, 19827, 19828, 19829, and 19830 to, and to repeal Section 19819 of,* the Business and Professions Code, relating to gaming, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 431, as amended, Rosenthal. Gaming.

Existing law, the Gaming Registration Act, among other things, prohibits the ownership or operation of a gaming club, as defined, without first obtaining a valid registration from the Attorney General. Existing law generally requires applications for registration to be acted upon within 180 days of submission of a completed application form. *Existing law requires the Attorney General to adopt rules and regulations to carry out the act.*

This bill would require the Attorney General to establish a process for expediting new applications within 90 days of filing and to charge an additional fee for this process.

The bill also would require the Attorney General to request, and the Department of Finance to approve, an appropriate number of personnel positions to adequately staff, as defined, the gaming registration program.

The bill would require the regulations of the Attorney General to contain specified provisions. The bill also would require the Attorney General, by regulation, to provide for the formulation and distribution of a list of persons who are to be excluded or ejected from a gaming club, and would permit a licensee under the act to remove specified persons from the licensed premises.

Existing law prohibits a gaming club from being located within the territorial limits of any city, county, or city and county that had not permitted gaming clubs prior to January 1, 1984, unless a majority of electors voting thereon approve a ballot measure permitting legal gambling, as specified.

This bill, instead, would require that $\frac{2}{3}$ of the electors affirmatively approve a measure permitting controlled gambling, or amending an ordinance permitting controlled gambling that results in substantial increases in the number of gambling tables, after its effective date. The bill would exempt from the requirement of voter approval, however, any city, county, or city and county that had in effect at any time prior to January 1, 1984, an ordinance permitting the operation of gaming clubs, if gaming clubs operated pursuant to that ordinance, and the ordinance was subsequently repealed.

The bill also would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19807 of the Business and
2 Professions Code is amended to read:
3 19807. (a) The Attorney General shall provide forms,
4 which are to be completed under penalty of perjury, to
5 obtain information to identify the persons applying for
6 registration including, but not limited to, the individual's
7 name, address, identification numbers, and other data
8 prescribed by the Attorney General, and the specific
9 gaming club or clubs involved and any relevant
10 information pertaining to other persons as defined in



1 subdivision (c) of Section 19802 affiliated with the gaming
2 club or clubs. Applicants for registration who have or will
3 have an ownership or management interest in any
4 gaming club shall submit full financial statements, as
5 prescribed by rule and regulation, and which shall
6 include a statement of any interest in any other business.
7 The applicant shall submit a statement under penalty of
8 perjury that no person, other than those disclosed in the
9 application, shall have any ownership control or other
10 financial interest in the gaming club. If the applicant
11 transfers any ownership interest in the club, the transfer
12 shall be reported to the Attorney General within 10 days.

13 (b) If any of the information submitted by an applicant
14 or registrant changes, the applicant or registrant shall
15 promptly notify the Attorney General. Financial
16 transactions relating to the sale and purchase of real
17 estate, stocks, or bonds do not need to be reported,
18 provided that the applicant owns less than a one-fourth
19 interest in the gaming club, and the gaming club is a
20 corporation or partnership authorized to do business in
21 California; however, the applicant shall submit an annual
22 financial statement. The Attorney General may deny a
23 change in ownership for any of the reasons set forth in
24 Section 19809.

25 (c) Applications for registration by individuals who
26 owned, operated, or had a financial interest in gaming
27 clubs on or before January 1, 1983, and all applications to
28 renew registrations granted pursuant to this chapter,
29 shall be acted upon within 60 days after the applicant
30 submits a completed application form. All other
31 applications shall be acted upon within 180 days of
32 submission of a completed application form. The
33 Attorney General may issue a conditional registration in
34 order to allow sufficient time to complete background
35 investigations without causing undue hardships to
36 applicants involved in the gaming industry. If no action
37 is taken within the time allowed, the application shall be
38 deemed granted.

39 (d) The Attorney General shall establish a process for
40 expediting applications for registration and shall charge

1 an additional fee for expediting applications through this
2 process. These applications shall be processed within 90
3 days of filing unless there are extraordinary issues
4 involved.

5 (e) The Attorney General shall request, and the
6 Department of Finance shall approve, an appropriate
7 number of personnel positions to adequately staff the
8 gaming registration program. For these purposes,
9 ‘adequately staff’ means to staff the number of positions
10 necessary to process applications as required by this
11 section. The Attorney General shall adjust annually the
12 application and renewal fees to cover the costs of
13 processing the applications for registration and renewal
14 applications.

15 (f) A gaming club may authorize the release of
16 information held by the Attorney General regarding that
17 gaming club and all persons associated with that club.

18 *SEC. 2. Section 19819 of the Business and Professions*
19 *Code is repealed.*

20 ~~19819. No gaming club shall be located within the~~
21 ~~territorial limits of any county, city, or city and county~~
22 ~~which had not permitted gaming clubs prior to January~~
23 ~~1, 1984, unless a majority of electors voting thereon~~
24 ~~affirmatively approve a measure permitting legal~~
25 ~~gambling within that city, county, or city and county. The~~
26 ~~question shall appear on the ballot in substantially the~~
27 ~~following form:~~

28
29 ~~“Shall card clubs in which any games permitted by law,~~
30 ~~such as draw poker, low-ball poker and panguingue~~
31 ~~(pan) are played be allowed in _____?”~~
32 ~~_____ Yes _____ No _____~~

33
34 *SEC. 3. Section 19819.1 is added to the Business and*
35 *Professions Code, to read:*

36 *19819.1. (a) This chapter does not prohibit the*
37 *enactment, amendment, or enforcement of any*
38 *ordinance by any city, county, or city and county relating*
39 *to licensed gaming clubs that is not inconsistent with this*
40 *chapter. On and after the effective date of this section, no*

1 city, county, or city and county shall issue a gambling
2 license with respect to any gaming club unless one of the
3 following is true:

4 (1) The gaming club is located in a city, county, or city
5 and county where, after January 1, 1984, an ordinance was
6 adopted by the electors of the city, county, or city and
7 county, in an election conducted pursuant to former
8 Section 19819 of the Business and Professions Code, as
9 that section read immediately before its repeal by the act
10 that enacted this section.

11 (2) The gaming club is located in a city, county, or city
12 and county where, prior to January 1, 1984, there was in
13 effect an ordinance that expressly authorized the
14 operation of one or more cardrooms.

15 (3) After the effective date of this section, two-thirds
16 of the electors voting thereon affirmatively approve a
17 measure permitting controlled gambling within that city,
18 county, or city and county.

19 (4) (A) The measure to permit controlled gambling
20 shall appear on the ballot in substantially the following
21 form:

22 “Shall licensed gaming clubs in which any controlled
23 games permitted by law, such as draw poker, low-ball
24 poker, panguingue (pan), seven-card stud, pai gow
25 poker, pai gow, and super pan nine, are played be allowed
26 in ____? Yes ____ No ____”
27

28 (B) In addition, the initial implementing ordinances
29 shall be drafted and appear in full on the sample ballot
30 and shall set forth at least the following:

31 (i) The hours of operation.

32 (ii) The games to be played.

33 (iii) The wagering limits.

34 (iv) The maximum number of gaming clubs
35 permitted by the ordinance.

36 (v) The maximum number of tables permitted in each
37 gaming club.

38 (b) On and after the effective date of this section, any
39 amendment to any ordinance permitting controlled
40 gambling that would result in a substantial increase in the

1 *total number of gambling tables that may operate in a*
2 *city, county, or city and county, shall not be valid unless*
3 *the amendment is submitted for approval to the voters of*
4 *the city, county, or city and county, and is approved by*
5 *two-thirds of the electors voting thereon.*

6 *For the purposes of this subdivision, “substantial*
7 *increase” means either of the following:*

8 *(1) An increase of 25 percent or more from the total*
9 *number of gambling tables in the city, county, or city and*
10 *county that were operating or authorized, whichever is*
11 *the lesser number, on January 1, 1995.*

12 *(2) An increase of 25 percent or more from the total*
13 *number of gambling tables authorized by an immediately*
14 *preceding amendment to an ordinance that was*
15 *approved by the voters pursuant to this section.*

16 *(c) Notwithstanding subdivision (a), if any city,*
17 *county, or city and county had in effect at any time prior*
18 *to January 1, 1984, an ordinance permitting the operation*
19 *of gaming clubs, and gaming clubs operated pursuant to*
20 *that ordinance, and the ordinance was subsequently*
21 *repealed, the city council of that city or the board of*
22 *supervisors of the county, as the case may be, may enact*
23 *an ordinance that authorizes the operation of one or more*
24 *cardrooms, if the ordinance is enacted prior to January 1,*
25 *1996.*

26 *(d) If a city, county, or a city and county has received*
27 *multiple gaming license applications but has not issued*
28 *those licenses on or before January 1, 1996, and has issued*
29 *a license to a gaming club that is not in operation on or*
30 *before January 1, 1996, on and after January 1, 1996, the*
31 *city, county, or city and county may only issue licenses*
32 *that would result in increasing the total number of*
33 *gambling tables in operation in the city, county, or city*
34 *and county by 50 percent.*

35 *SEC. 4. Section 19827 is added to the Business and*
36 *Professions Code, to read:*

37 *19827. (a) Regulations adopted by the Attorney*
38 *General on or before September 1, 1996, for the purpose*
39 *of implementing the provisions of the act that added this*
40 *section during the 1995–96 Regular Session of the*

1 Legislature, shall be deemed to be emergency
2 regulations and shall take effect immediately upon
3 adoption. Prior to August 1, 1996, the Attorney General
4 shall conduct a public hearing for the purpose of
5 receiving public comment on regulations adopted, or
6 proposed to be adopted, pursuant to this subdivision.

7 (b) No regulation that is deemed to be an emergency
8 regulation solely by operation of this subdivision shall be
9 valid after July 1, 1997, unless the regulation has been
10 adopted subsequently by the Attorney General following
11 a public hearing.

12 (c) Nothing in subdivision (b) shall be construed to
13 limit the power of the Attorney General to adopt
14 emergency regulations pursuant to subdivision (a).

15 SEC. 5. Section 19828 is added to the Business and
16 Professions Code, to read:

17 19828. Regulations of the Attorney General shall do all
18 of the following:

19 (a) Require owner registrants to report and keep
20 records of transactions, as determined by the Attorney
21 General, involving cash or credit. The regulations may
22 include, without limitation, regulations requiring owner
23 licensees to file with the Attorney General reports similar
24 to those required by Sections 5313 and 5314 of Title 31 of
25 the United States Code, and by Sections 103.22 and 103.23
26 of Title 31 of the Code of Federal Regulations, and any
27 successor provisions thereto, from financial institutions,
28 as defined by Section 5312 of Title 31 of the United States
29 Code and Section 103.11 of Title 31 of the Code of Federal
30 Regulations, and any successor provisions thereto.

31 (b) Prescribe minimum procedures for adoption by
32 owner registrants to exercise effective control over their
33 internal fiscal and gambling affairs, which shall include,
34 but not be limited to, provisions for all of the following:

35 (1) The safeguarding of assets and revenues, including
36 the recording of cash and evidences of indebtedness.

37 (2) Prescribing the manner in which compensation
38 from games and gross revenue shall be computed and
39 reported by an owner licensee.

1 (3) *The provision of reliable records, accounts, and*
2 *reports of transactions, operations, and events, including*
3 *reports to the Attorney General.*

4 (c) *Provide for the adoption and use of internal audits,*
5 *whether by qualified internal auditors or by certified*
6 *public accountants. As used in this subdivision, “internal*
7 *audit” means a type of control that operates through the*
8 *testing and evaluation of other controls and that is also*
9 *directed toward observing proper compliance with the*
10 *minimum standards of control prescribed in subdivision*
11 *(b).*

12 (d) *Require periodic financial reports from each*
13 *owner licensee.*

14 (e) *Specify standard forms for reporting financial*
15 *conditions, results of operations, and other relevant*
16 *financial information.*

17 (f) *Formulate a uniform code of accounts and*
18 *accounting classifications to ensure consistency,*
19 *comparability, and effective disclosure of financial*
20 *information.*

21 (g) *Prescribe intervals at which the information in*
22 *subdivisions (d) and (f) shall be furnished to the Attorney*
23 *General.*

24 (h) *Require audits to be conducted, in accordance*
25 *with generally accepted auditing standards, of the*
26 *financial statements of all owner licensees whose annual*
27 *gross revenues equal or exceed a specified sum. However,*
28 *nothing herein shall be construed to limit the Attorney*
29 *General’s authority to require audits of any owner*
30 *licensee. Audits, compilations, and reviews provided for*
31 *in this subdivision shall be made by independent certified*
32 *public accountants licensed to practice in this state.*

33 SEC. 6. *Section 19829 is added to the Business and*
34 *Professions Code, to read:*

35 19829. (a) *The Attorney General, by regulation, shall*
36 *provide for the formulation of a list of persons who are to*
37 *be excluded or ejected from any gaming club. The list*
38 *may include any person whose presence in the*
39 *establishment is determined by the Attorney General to*

1 *pose a threat to the interests of this state or to controlled*
2 *gambling, or both.*

3 *(b) In making the determination described in*
4 *subdivision (a), the Attorney General may consider, but*
5 *is not limited to, any of the following:*

6 *(1) Prior conviction of a crime that is a felony in this*
7 *state or under the laws of the United States, a crime*
8 *involving moral turpitude, or a violation of the gambling*
9 *laws of this or any other state.*

10 *(2) The violation of, or conspiracy to violate, the*
11 *provisions of this chapter relating to the failure to disclose*
12 *an interest in a gambling establishment for which the*
13 *person is required to obtain a license, or the willful*
14 *evasion of fees.*

15 *(3) A notorious or unsavory reputation that would*
16 *adversely affect public confidence and trust that the*
17 *gambling industry is free from criminal or corruptive*
18 *elements.*

19 *(4) An order of exclusion or ejection from a racing*
20 *inclosure issued by the California Horse Racing Board.*

21 *(c) The Attorney General shall distribute the list of*
22 *persons who are to be excluded or ejected from any*
23 *gaming club to all owner registrants and shall provide*
24 *notice to any persons included on the list.*

25 *(d) The Attorney General shall adopt regulations*
26 *establishing procedures for hearing petitions by persons*
27 *who are ejected or excluded from registered premises*
28 *pursuant to this section or pursuant to Section 19830.*

29 *(e) The Attorney General may revoke, limit,*
30 *condition, or suspend the registration of an owner, or fine*
31 *an owner licensee, if that registrant knowingly fails to*
32 *exclude or eject from the gaming club of that registrant,*
33 *any person included on the list of persons to be excluded*
34 *or ejected.*

35 *SEC. 7. Section 19830 is added to the Business and*
36 *Professions Code, to read:*

37 *19830. (a) A registrant may remove from his or her*
38 *registered premises any person who, while on the*
39 *premises:*

1 (1) *Is a disorderly person as defined by Section 647 of*
2 *the Penal Code.*

3 (2) *Interferes with a lawful gambling operation.*

4 (3) *Solicits or engages in any act of prostitution.*

5 (4) *Begs, is boisterous, or is otherwise offensive to*
6 *other persons.*

7 (5) *Commits any public offense.*

8 (6) *Is intoxicated.*

9 (7) *Is a person who the Attorney General, by*
10 *regulation, has determined should be excluded from a*
11 *registered gaming club in the public interest.*

12 (b) *Nothing in this section shall be deemed, expressly*
13 *or impliedly, to preclude a registrant from exercising the*
14 *right to deny access to or to remove any person from its*
15 *premises or property for any reason the registrant deems*
16 *appropriate.*

17 SEC. 8. *This act is an urgency statute necessary for the*
18 *immediate preservation of the public peace, health, or*
19 *safety within the meaning of Article IV of the*
20 *Constitution and shall go into immediate effect. The facts*
21 *constituting the necessity are:*

22 *Because a backlog in the Attorney General's office of*
23 *card club registration applications has led to economic*
24 *hardships for prospective card club operators, and*
25 *because the Attorney General requires additional*
26 *authority to prevent potential illegal activities in card*
27 *clubs, it is necessary that this act take effect immediately.*